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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/772,785	01/30/2001	James F. Ziech	60680-491	1549

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EXAMINER

TO, TOAN C

ART UNIT	PAPER NUMBER
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3616

DATE MAILED: 01/02/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/772,785

Applicant(s)

ZIECH ET AL.

Examiner

Toan C To

Art Unit

3616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 18 March 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-18, 20 and 21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18, 20 and 21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 12.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Drawings*

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, a vehicle engine as recited in claims 4, 9, and 16 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 5, 10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Recitation "a first end of a strut rod <sup>having</sup> a second end" is vague, since it appears that a strut rod <sup>has</sup> ~~having~~ a first and second ends but not "a first end.. having a second end".

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-5, 13-18, 20-21 are rejected under 35 U.S.C. 102(b) as being anticipated by Berckhan (U.S. 3,243,007).

As to claims 1, and 13 Berckhan discloses a sub-frame assembly with the following: a first and second cross members (23, 24) being integral with a first and second side members (29, 30) so as to form a unitary member; wherein the first and second side members and the first and second cross members configured to receive first and second lower suspension control arms (60), and first and second upper suspension control arms (59).

As to claims 2, and 14, Berckhan discloses a sub-frame assembly with the following: wherein the first and second cross members (23, 24) are configured to receive the first and second lower suspension arms (60).

As to claim 3, and 15, Berckhan discloses a sub-frame assembly with the following: wherein the first and second side members (29, 30) configured to receive first and the first and second upper suspension control arms (59).

As to claims 4, and 16, Berckhan discloses a sub-frame assembly with the following: a third cross member (36) integral with the first and second side members (29, 30).

As to claim 5, and 17, Berckhan further discloses a sub-frame assembly with the following: a strut rod (73) having a first end coupled to the subframe (15) and second end coupled to the vehicle frame (11)

As to claims 18 and 20, Berckhan discloses a sub-frame assembly with the following: a steering gear (50) and a steering linkage (70) coupled to the subframe.

As to claim 21, recitation "form an independent front suspension for the vehicle") have been given little patentable weight because they are regarded as intended use language. A recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In a claim drawn to a process of making, the intended use must result in a manipulative difference as compared to the prior art. *In re Casey*, 152 USPQ 235 (CCPA 1967); *In re Otto*, 136 USPQ 458, 459 (CCPA 1963).

4. Claims <sup>6-12</sup>~~6-9, and 11~~ are rejected under 35 U.S.C. 102(b) as being anticipated by Berckhan et al (U.S. 5,560,651).

As to claims 6, and 11 Berckhan discloses a sub-frame assembly with the following: a first and second cross members (23, 24) being integral with a first and second side members (29, 30); wherein, the first and second cross members (23, 24) and the first and second side members (29, 30) are configured to receive first and second lower suspension control arms (60), first and second upper suspension control arms (59) and idler arm (69) of a steering linkage (70).

As to claim 7, Berckhan discloses a sub-frame assembly with the following: wherein the first and second cross members (23, 24) are configured to receive the first and second lower suspension arms (60).

As to claim 8, Berckhan discloses a sub-frame assembly with the following:  
wherein the first and second side members (29, 30) configured to receive first and the first and second upper suspension control arms (59).

As to claim 9, Berckhan discloses a sub-frame assembly with the following: a third cross member (36) integral with the first and second side members (29, 30).

As to claim 10, Berckhan further discloses a sub-frame assembly with the following: a strut rod (73) having a first end coupled to the subframe (15) and second end coupled to the vehicle frame (11)

As to claim 12, Berckhan discloses a sub-frame assembly with the following: the first and second cross members (23, 24) and the first and second side members (29, 30) are configured to receive a steering gear (50).

### ***Response to Arguments***

3. Applicant's arguments with respect to claims 1-18, 20-21 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Toan To whose telephone number is (703) 306-5951. The examiner can normally be reached on Monday-Friday from 8:00 AM to 5:00 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Dickson, can be reached on (703) 308-2089. The fax phone number for the organization where this application or proceeding is assigned is (703) 308-2571.

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Any inquiry of a general nature or relating to the status of this application or this application or proceeding should be directed to the receptionist whose telephone number is (703)305-1113.

To, T

December 27, 2002

*Eric Culbreth*  
ERIC CULBRETH  
PRIMARY EXAMINER

*12/30/02*